

K.A.R. 5-5-10. Partial changes in the use made of water from irrigation to another type of beneficial use of water. (a) ~~In a case where~~ If an irrigation right is to be divided and only a portion of the rate and quantity will be changed to a different ~~use made~~ beneficial use of water, only that portion of the annual quantity of the water right being changed to a different type of beneficial use of water shall be reduced as necessary to prevent the net consumptive use from increasing ~~substantially~~.

(b) The authorized place of use for the irrigation right ~~shall generally~~ may be reduced in proportion to the reduction in annual quantity caused by the change. If the irrigator ~~desires~~ wants to retain more than ~~his or her~~ that person's proportional allotment of acres after the change, the procedures ~~outlined~~ specified in K.A.R. 5-5-11(b)(2)(B)(ii) shall be followed to determine whether the irrigator shall be allowed to retain more acreage.

(c) The authorized rate of diversion shall be divided between the irrigation use and the non-irrigation use. ~~Any~~ Each reasonable division of the rate by the parties shall be approved. A reasonable division of the rate shall be based on the actual rate of withdrawal at the time of the application and the existing physical conditions of the water source at the time of the application. The division of the maximum rate of diversion ~~need~~ shall not be required to be proportional to the division of the quantity ~~as long as~~ if the division of the rate of diversion is reasonable to divert each portion of the annual quantity of water after the division of the water right is made.

(d) The division of the annual quantity shall be ~~made~~ calculated as follows:

(1) ~~Step one:~~

~~(A) Multiply the net irrigation requirement (NIR) for the 50% chance rainfall for the county of origin, as set forth in K.A.R. 5-5-12, times the maximum number of acres irrigated in~~

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any one calendar year during the perfection period. For vested rights, the acreage used shall be the maximum acreage irrigated prior to June 28, 1945.

(B) This will result in Calculate the maximum quantity that could be changed to another type of beneficial use of water if the entire water right were changed pursuant to K.A.R. 5-5-9(a)(1).

(2) ~~Step two:~~

(A) Divide the annual quantity sought ~~desired~~ to be changed to the new beneficial use of water by the maximum quantity that could be changed if the entire water right were changed.

(B) This will ~~The result in~~ shall be the percentage of the entire reduced water right that will be changed to the new beneficial use of water. The remaining percentage of the current water right may ~~can~~ be retained by the irrigation water right owner.

(3) ~~Step three:~~

(A) Multiply the remaining percentage times the total currently authorized quantity. This The result shall be the annual quantity of water ~~which~~ that may be retained by the irrigation water right owner. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1993 2016 Supp. 82a-708b; effective Nov. 28, 1994; amended P-_____.)

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